

REMARKS/ARGUMENTS

The present communication is responsive to the Office Action mailed March 4, 2008. Applicants submit a two-month extension of the term extending the period of reply from June 4, 2008 up to and including August 4, 2008 herewith. A request for continued examination is also submitted herewith.

Claims 1-3, 5-9, 11-13 and 15 were rejected in the Action. Claims 4 and 10 were objected to. Claims 1 and 13 have been amended, claims 2-4 and 7-10 have been canceled, and claim 16 has been added herein. Therefore, claims 1, 5, 6, 11-13, 15 and 16 are currently pending in the present application. Support for all amendments to the claims and support for new claim 16 can be found in Applicants' originally filed specification. No new matter has been added. Applicants set forth remarks relating to the Action below.

Applicants would like to thank the Examiner for the indication of allowable subject matter. Specifically, the Examiner objected to claims 4 and 10 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants have incorporated the subject matter of canceled claims 2-4 into independent claim 1. Applicants have also added new independent claim 16 incorporating the subject matter of canceled claims 7-10 into previously presented claim 1. For the foregoing reasons, independent claims 1 and 16 should be in condition for allowance. Claims 5, 6, 11, and 12 should also be in condition for allowance, *inter alia*, by virtue of their dependence from claim 1 an allowable base claim.

In the Action, the Examiner rejected claims 1-3, 5-9, 11, 12 under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,192,327 to Brantigan ("*Brantigan*") in view of U.S.

Pat. No. 5,782,830 to Farris ("*Farris*"), and claims 13 and 15 under 35 U.S.C. §103(a) as being unpatentable over *Brantigan* in view of U.S. Patent Pub. No. 2001/20170 to Zuckerman *et al.* ("*Zuckerman*"). Applicants respectfully submit that the § 103(a) rejection of claim 1 is moot in view of the above described amendments made to claim 1. Further, Applicants have independent claim 13 in a similar manner to how claim 1 was amended. Basically, the subject matter of canceled claim 4-7 was incorporated into claim 13 as well. Applicants respectfully submit that neither *Brantigan* nor *Zuckerman* teach each and every limitation of amended claim 13 and therefore a *prima facie* case of obviousness cannot be made with respect to these cited references. Therefore, claim 13 is in condition for allowance as well as claim 15 depending therefrom. A dependent claim is necessarily narrower than the claim from which it depends.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/663,488

Docket No.: SPINE 3.0-437
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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 4, 2008

Respectfully submitted,

By 
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